granted an immediate right of action in situations like the principal case. *Reese v. Fidelity & Deposit Co. of Md.*, 156 N. Y. Sup. 408; *New Amsterdam Casualty Co. v. New Palestine Bank*, 107 N. E. (Ind. App.) 554; *Hansell-Elcock Co. v. Frankfort Marine Accident & Plate Glass Ins. Co.*, 177 Ill. App. 500.

C. B.

CRIMINAL LAW—DISCLOSURE OF OFFENCE BY ILLEGAL SEARCH.—TOWN OF BLACKSBURG v. BEAM, 88 S. E. (S. C.) 441.—Where a police officer forcibly and unlawfully, without process, searched defendant's person and took the key to his trunk, which he opened, finding therein whiskey which was being transported to a non-licensed county, *held*, that defendant could not be convicted of transporting alcoholic liquors, since a citizen may not be arrested and have his person searched by force and without process to secure testimony against him. Fraser, J., *dissenting*.

By the Constitution a person is secured against unreasonable searches and seizures, Amendment IV; and giving evidence against himself, Amendment V. These amendments refer to powers exercised by the government of the United States and not to those of the individual states, 6 R. C. L., Constitutional Law, ¶ 233. The security intended to be guaranteed by the Fourth Amendment is designed to prevent violations of private security in person and property by federal officers acting under legislative or judicial sanction. *Weeks v. U. S.*, 232 U. S. 383; *Adams v. N. Y.*, 192 U. S. 585. The constitutional privilege of the Fifth Amendment applies only to testimonial compulsion, and any form of process treating defendant as a witness. *Boyd v. U. S.*, 116 U. S. 616. Though a search without legal justification is a trespass, and the officer liable,—*McClury v. Brenton*, 123 Ia. 368, *Regan v. Harkey*, 40 Tex. Civ. App. 16,—it is the general rule that evidence of a criminal offence obtained by an illegal search of person or premises is admissible, and not a violation of these constitutional guaranties. 8 R. C. L. Criminal Law, ¶ 193; Wigmore on Evidence, Vol. IV, ¶¶ 2183, 2263-4; *Shields v. State*, 104 Ala. 35; *Commonwealth v. Tucker*, 189 Mass. 457. Nor is it a violation of the Fourteenth Amendment. *Williams v. State*, 100 Ga. 511. Nevertheless, the *obiter* expressions of opinion by the majority in *Boyd v. U. S.*, supra, and refused generally by judicial opinion,—*Hale v. Henkel*, 201 U. S. 43; *State v. Fuller*, 34 Mont. 12,—have led a few courts to adopt its erroneous view and to exclude documents and chattels obtained by illegal seizure. *Hammock v. State*, 1 Ga. App. 126; *State v. Slamon*, 73 Vt. 212; *State v. Sheridan*, 121 Ia. 164. The holding of the principal case is contrary to the weight of authority.

E. J. M.

CRIMINAL LAW—INSTRUCTIONS—EVIDENCE—PREVIOUS GOOD CHARACTER.—COMMONWEALTH v. RONELLO, 96 ATL. (PA.) 826.—*Held*, where there was evidence of defendant's previous good character, it was error to instruct that if the jury were satisfied from the evidence beyond a reasonable doubt that the defendant was guilty, this conclusion could not be overcome by the character evidence.

Good character evidence should be considered with all the other evidence in the case, *Allen v. State,* 8 Ala. App. 228; *People v. Dippold,* 30 App. Div. (N. Y.) 62; but such evidence is not of itself sufficient to raise a reasonable doubt of guilt, *Cobb v. State,* 115 Ala. 18; *Carwile v. State,* 148 Ala. 576; *Hammond v. State,* 74 Miss. 214; and proof of good character is of no weight if the jury are satisfied beyond a reasonable doubt from *all* the evidence that defendant is guilty. *People v. Dippold, supra; State v. McGrath,* 35 Ore. 109; *State v. Mapin,* 196 Mo. 164; *People v. Mitchell,* 129 Cal. 584; *Hayes v. U. S.,* 32 Fed. 662. An Oklahoma court has even held that the defendant has no right to have good character evidence considered at all in deciding the issue of reasonable doubt as to the defendant's guilt. *Coleman v. State,* 118 Pac. (Okl.) 594; and Texas agrees that good character is not affirmative evidence for defendant nor is it to be considered at all in determining his guilt. *McDaniel v. State,* 139 S. W. (Tex.) 1154. On the other hand, it is held in New York that the good reputation of the accused may *in itself* create a reasonable doubt where none would otherwise exist. *People v. Buccufurri,* 143 N. Y. Sup. 62; *People v. Koppman,* 143 N. Y. Sup. 919. Alabama adds that good reputation, when taken with all the evidence in the case, may raise such a doubt as to authorize acquittal when the jury otherwise would have no doubt. *Watts v. State,* 59 So. (Ala.) 270; *McCullough v. State,* 11 Ga. App. 612. The principal case seems to take the New York view that good character alone may create a doubt sufficient for an acquittal where the evidence of the defendant's guilt is otherwise convincing. This doctrine seems to lay rather too much stress on evidence of defendant's previous good reputation.

S. B.

HOMICIDE—JUSTIFICATION.—COOP V. STATE, 180 S. W. (TEX.) 254.—Wife of appellant had conducted herself in such way as to show that she had been unfaithful to marriage vows. Appellant saw his wife and decedent standing in the street in close embrace and fired on them, killing both. A Texas statute provides "Homicide is justifiable when committed by husband upon the person of anyone taken in the act of adultery with the wife, provided the killing take place before the parties to the act of adultery have separated." *Held,* appellant entitled to a charge that he did not violate the law in killing his wife.

It seems to be settled in Texas under this statute that the killing of the wife is justifiable wherever the killing of the other party would be. *Williams v. State,* 73 Tex. Cr. R. 480. The theory seems to be that since at common law the killing of the wife under such circumstances was manslaughter instead of murder, the statute may also be construed as putting the killing of the wife on the same plane with the killing of the other party. The Texas courts have given a broad construction to this statute. In *Morrison v. State,* 39 Tex. Cr. R. 519, it was held that the statute contemplated only that the parties still be in the company of each other. In *Price v. State,* 18 Tex. App. 474, it is said that since at common law it was not necessary that the guilty parties be taken in the act in order to grade the homicide as manslaughter rather than as murder, so